

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2985 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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VALIMOHMAD J SHAIKH

Versus

DHORAJI MUNICIPALITY  
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Appearance:

MR PV HATHI for Petitioner  
MR ND NANAVATI for Respondent No. 1  
MR UR BHATT, AGP for Respondent No. 2, 3  
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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 11/02/2000

ORAL JUDGEMENT

The petitioner, who retired as an employee (Naka Clerk) of the Dhoraji Municipality on 21.10.1987 had filed this petition under Article 226 of the Constitution for a writ of mandamus to direct the respondent Municipality to pay the petitioner an amount of Rs.77,470-44 alongwith interest under various heads.

2. By interim order dated 3.10.1988 this Court had directed the respondent Municipality to pay the petitioner the aggregate amounts of Rs.43,554-21 which were the Provident Fund dues of the petitioner.

3. At the hearing of this petition, the learned counsel for the respondent Municipality has placed on record a statement dated 1.7.1990 signed by the Accountant of the respondent Municipality giving particulars about the various amounts paid by the respondent Municipality to the petitioner under different heads which include (over and above the amount of Provident Fund) gratuity, leave encashment, LTC amount and arrears of salary. Only two items remain as per the said statement. Under the head bonus, the petitioner has claimed Rs.2380-80. The remarks in the aforesaid statement indicate that the Municipality has not paid the said amount on account of the stay order from the Collector and that the petitioner will be paid when the other employees will be paid the bonus amount. It is, therefore, clear that no arbitrary or discriminatory treatment is meted out to the petitioner as such. As far as the last item is concerned, the same pertains to giving uniform, umbrella and clothes to the petitioner which the respondent Municipality had not given to other employees as well on account of the financial crunch. The amount works out to hardly Rs.480/- and in the facts and circumstances of the case, this Court is not inclined to exercise its extraordinary jurisdiction under Article 226 of the Constitution for directing the respondent Municipality to pay the petitioner the amount in lieu of uniform/umbrella/jerky.

4. In view of the above, nothing further is required to be done in this petition and in view of the fact that substantial amount as stated in the aforesaid statement has been paid to the petitioner, this petition is disposed of without prejudice to the rights and contentions of the petitioner to get the amount of bonus if and when the respondent Municipality pays such bonus amount to other employees. In case the respondent Municipality has already paid such amount to the petitioner, this observation has to be ignored.

Rule is discharged. There shall be no order as to costs.

February 11, 2000 (M.S. Shah, J.)  
sundar/-